

1 to make more than \$700,000 in loans to his campaign that he reported as coming from his
2 own personal funds based primarily on information contained in the House Financial
3 Disclosure Statement ("House FDS") Yu filed with the Office of the Clerk, U.S House of
4 Representatives.³ Compl. at 1 (May 19, 2014). Further, according to the Complaint, these
5 alleged violations follow a "pattern" of violating contribution limits that the Committee
6 established earlier in the election cycle when it accepted \$50,000 in excessive contributions.⁴
7 *Id.* at 1, 10-13.

8 Yu and his principal campaign committee, Eugene Yu for Congress ("Committee")
9 (collectively "Respondents"), maintain that Yu made loans to the Committee from personal
10 funds in accordance with applicable regulations and that no facts have been presented
11 showing that Yu used funds from any other sources. Resp. at 2 (June 9, 2014). Respondents
12 state that Yu's House FDS shows that Yu had personal assets valued in excess of \$3 million,
13 an amount greater than the total loans. *Id.*

14 Based on the available information, it appears that Yu did not have sufficient liquid
15 assets, or proceeds from liquidating other assets, to loan his Committee \$790,704 from

³ Yu lost the May 20, 2014, Republican primary, receiving 16.5% of the vote in a five-person race. See Georgia Office of the Secretary of State website at <http://results.enr.clarivelections.com/GA/51345/132192/en/summary.html>.

⁴ The \$50,000 in excessive contributions cited in the Complaint was the subject of a *sua sponte* submission filed with the Commission by the Committee. The contributions were originally reported as personal loans from the candidate. See Pre-MUR 569 (Eugene Yu for Congress, *et al.*) (Jan. 23, 2014). The Pre-MUR was sent to the Alternative Dispute Resolution Office ("ADRO") for resolution and became ADR 701. A proposed settlement of the matter negotiated by ADRO is currently pending before the Commission for approval. ADR 701 (Pre-MUR 569) (Eugene Yu for Congress, *et al.*) (circulated on July 17, 2014). As discussed, in the report, due to potential overlap between the facts at issue in the ADR matter, and those at issue in this complaint, we recommend that the Commission refrain from taking action on the negotiated settlement agreement in ADR 701 (Pre-MUR 569) (Eugene Yu for Congress, *et al.*) until it has considered the recommendations regarding this complaint, including the proposed investigation and, if the Commission approves an investigation, until we have gathered full information about the source of all of the loans that Yu purportedly made to his campaign from his own personal funds.

1 personal funds,⁵ the total amount of candidate loans reported during the 2014 election cycle.⁶
2 Therefore, we recommend that the Commission find reason to believe that Eugene Yu for
3 Congress and Donnie Miller in his official capacity as treasurer violated 52 U.S.C.
4 §§ 30104(b) and 30116(f) (formerly 2 U.S.C. §§ 434(b) and 441a(f)), and Eugene Chin Yu
5 violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). We also recommend that the
6 Commission authorize an investigation to determine whether the loans were in fact financed
7 with Yu's personal funds.

8 **II. FACTS**

9 **A. Senate Candidacy, Candidate Loans, and Senate Financial Disclosure**
10 **Statement**

11
12 On July 11, 2013, Eugene Yu filed a Statement of Candidacy for the U.S. Senate
13 election in Georgia and designated the Committee as his principal campaign committee. On
14 July 17, 2013, Yu filed a Financial Disclosure Report with the Secretary of the U.S. Senate
15 ("Senate FDR").⁷ Yu disclosed no salary or earned income, rental income from a commercial
16 property in the range of \$50,001 to \$100,000, and compensation from one source in excess of

⁵ The Complaint alleges that Yu made \$736,000 in loans from personal funds; the \$790,704 figure includes personal loans made after the Complaint was filed.

⁶ As noted in Attachment A, a chart entitled "All Loans Made by Yu to Committee Reported as From Personal Loans," the Committee's reports reflect that \$14,200 of the total loan amount was repaid prior to the primary election. Attachment A. In addition, in response to a Request for Additional Information from the Reports Analysis Division, the Committee has converted the outstanding personal loans aggregating in excess of \$250,000 to contributions in accordance with 52 U.S.C. § 30116(j) (formerly 2 U.S.C. § 441a(j)) and 11 C.F.R. § 116.11. See *id.*, note 2; Amended 2014 July Quarterly Report (Aug. 28, 2014) at 5 (memo text); 2014 October Quarterly Report at 5 (Oct. 1, 2014).

⁷ Candidates seeking election to the U.S. Senate and U.S. House are required to file financial disclosure reports by the Ethics in Government Act ("EIGA"), 2 U.S.C. § 101 *et seq.* Although the instructions for the Senate FDR specify the reporting period for most of the information in the report is January 1, 2012, through the date of filing (July 17, 2013 in this case), Yu lists 2012 as the reporting period. Public Financial Disclosure Report eFD Instructions, Senate Select Committee on Ethics, at 3-4 (2014) ("Senate FDR Instructions"). Yu amended his Senate FDR on October 23 and November 4, 2013, in response to questions from the reviewing office. Copies of Yu's July 17, 2013,

1 \$5,000 from a company in which Yu owned stock.⁸ Yu also disclosed assets: a money
2 market account in the range of \$1,001 to \$15,000;⁹ stocks in two Korean companies, Inspirit,
3 Inc., and Enspert, Inc., and three properties – the commercial property (noted above), vacant
4 land described as “Land-Greene Co.,” and a condominium.¹⁰ These assets, with a combined
5 disclosed value ranging from \$2,450,000 to \$11,000,000, are listed as owned by Yu except for
6 the Greene County land reported as owned by Yu’s spouse. Thus, Yu’s share of the disclosed
7 stock and property as of December 31, 2012, is reportedly valued between \$2,350,000 and
8 \$10,750,000.¹¹ In a November 2013 amendment to the Senate FDR, however, Yu states that
9 Inspirit, Inc., went out of business in 2012.¹² Similarly, Yu reports the value of the second
10 stock, Enspert, Inc., in the range of \$100,001 to \$250,000, but it appears this company is also
11 defunct.¹³ Yu’s listing of the stocks in the Senate FDR seems to be appropriate because he

⁸ Part X of the Senate FDR, “Compensation From One Source in Excess of \$5,000,” does not require filers to disclose a specific figure. Candidates are required to list in this section compensation received in the current year and the preceding two calendar years. Senate FDR Instructions at 4. Since Yu reported no income in 2012, it may be that he received this compensation in 2011.

⁹ Yu disclosed that he received no income or less than \$200 from the money market account.

¹⁰ Yu disclosed that he received no income or less than \$200 from the vacant land and condominium.

¹¹ The only liability reported against the disclosed assets is a home equity loan incurred in 2012 in the range of \$50,001 to \$100,000. Yu reported that loan as his spouse’s liability, however. In addition, in both the Senate FDR and House FDS, Yu reports mortgages on his residence and on the condominium, incurred in 2000 and 2002, respectively.

¹² In reply to an inquiry from the Senate’s reviewing office about compensation he received from Inspirit, Yu said “. . . Inspirit, Inc. went out of business in 2012.” Senate FDR at 10 (Nov. 4, 2013). *See also* <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=12315163> (Bloomberg Businessweek’s “Companies & Industries/Company Research” section containing an overview of Inspirit and stating that there are no transactions available in the past 12 months). Inspirit’s website, www.in-spirit.com, connects to a single page about payday loans.

¹³ According to CreditRiskMonitor, an internet based publisher of commercial credit information, Enspert filed for bankruptcy on March 26, 2012, and is no longer actively traded on any major stock exchange.

See also

<http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=84150481> (Bloomberg Businessweek’s “Companies & Industries/Company Research” section containing an overview Enspert and

1 held the stock during the reporting period, but the reported value of the stocks was not. A
2 filer must report the value of an asset as of any date within 31 days before or after the filing
3 date.¹⁴

4 During the course of Yu's Senate campaign, the Committee disclosed that Yu made 26
5 separate loans to the campaign, totaling \$438,204. See Attachment A (chart, "All Loans
6 Made by Yu to Committee From Personal Funds"). The source of each of these loans was
7 listed as "Eugene Yu."

8 On February 22, 2014, Yu announced he had dropped out of the Senate race and
9 would instead seek the Republican nomination for the U.S. House of Representatives in
10 Georgia's 12th Congressional District. Walter Jones, *Augusta Businessman Yu Switches*
11 *Senate Campaign to House*, THE AUGUSTA CHRONICLE (Feb. 23, 2014),
12 [http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-](http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-yu-switches-senate-campaign-house)
13 [yu-switches-senate-campaign-house](http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-yu-switches-senate-campaign-house).

14 **B. Congressional Candidacy, Candidate Loans, and House Financial**
15 **Disclosure Statement**
16

17 On March 4, 2014, Yu filed a Statement of Candidacy for the House election in the
18 12th Congressional District and an Amended Statement of Organization changing the name of
19 Eugene Yu for U.S. Senate to Eugene Yu for Congress, Inc.¹⁵ Yu made an additional eight
20 loans in connection with his House campaign totaling \$352,500 (making the aggregate loan

stating that there are no transactions available in the past 12 months). Enspert's website, www.enspert.com, currently links to a single page written in Korean apparently unrelated to the company.

¹⁴ See Senate FDR Instructions at 3.

¹⁵ The Committee disclosed financial activity for both Yu's Senate and House races.

1 total during both campaigns \$790,704.21). *See* Attachment A. Again, the Committee's
2 disclosure reports listed the source of the loans as "Eugene Yu."

3 Yu filed the House FDS on March 26, 2014. This statement, together with the Senate
4 FDR, provides information about Yu's finances from January 1, 2012, through an unspecified
5 date between February 24, 2014 and March 26, 2014.¹⁶ Yu reports the same assets in the
6 House FDS, filed on March 26, 2014, including the stocks from the apparently defunct
7 companies, with a few increases in the asset value ranges. All of the properties and stocks,
8 however, are now listed as jointly owned by Yu and his spouse, including the vacant Greene
9 County land reported in the Senate FDR as owned by Yu's spouse.¹⁷ Once again, Yu lists no
10 salary or earned income, a money market account now valued in the range of \$15,001 to
11 \$50,000, rental income from the commercial property in the range of \$50,001 to \$100,000 for
12 2013 and 2014, and interest income in the range of \$1 to \$200 from the money market
13 account in 2013 and 2014. *See* Compl. at 3-4. Yu also discloses a home equity loan in the
14 range of \$15,001 to \$50,000 obtained in April 2013 (a month before Yu made the first two

¹⁶ The reporting period for most of the information in the House FDS begins on January 1, 2013. We do not know the precise date of the end of the reporting period because it covers "through a date in the current calendar year within 30 days of the date of filing *as selected by the candidate*." Here, that date falls between February 24 and March 26, 2014. Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports, U.S. House of Representatives, Committee on Ethics at 7 (2014) ("House FDS Instructions") (emphasis added). In both the House FDS and Senate FDR, certain information, such as positions held in organizations and compensation in excess of \$5,000 paid by one source, must be reported for the current year and two preceding calendar years. House FDS Instructions at 7; Senate FDR Instructions at 4.

¹⁷ In both the Senate FDR and an October 2013 amendment, however, Yu discloses that the property was purchased in September 2012 and lists his spouse as the owner. Senate FDR at 5-6 (July 17, 2013); Senate FDR at 5 (Oct. 23, 2013). Publicly available property records appear to confirm this. A real estate transaction record shows Yu's wife and son, Jonie H. and Eric E. Yu, purchased as joint tenants agricultural property in Greene County, described as new construction, on August 28, 2012, for \$179,000. The deed was recorded on September 4, 2012. *See* Real Property Transaction Record, Westlaw No. APN:0960000040. A local Republican Party website identifies the names of Yu's wife and adult children in a short biographical piece. *See* <http://cherokeecountygop.com/2014-candidates/federal-races/georgia-senate-candidates/eugene-yu/>. The 2014 public tax assessment record for the property still lists them as the owners. *See* Real Property Tax Assessor Record, Westlaw No. APN:096-C-00-010-0.

1 loans to his campaign, totaling \$50,000). *Id.* at 4. *See also* Attachment A. Yu lists the loan
2 as a joint liability with his spouse.¹⁸ *Id.* at 4. The combined value of the stock and properties
3 as of February or March 2014, based on an increased value and a reported change in
4 ownership of the Greene County land, ranges from \$2,600,000 to \$11,250,000. Yu's share of
5 these assets is in the range of \$1,300,000 to \$5,625,000.

6 **C. Sua Sponte Submission (ADR 701/Pre-MUR 569)**

7 On January 23, 2014, the Committee filed a *sua sponte* submission with the
8 Commission indicating that three of the loans reported in its original 2013 October Quarterly
9 Report as loans from Yu's personal funds were in fact checks payable to the Committee from
10 Wayne Brown and his company, Waynetworks, LLC. *See* Resp. at Ex. C (Submission). The
11 Committee explained that the three checks, totaling \$45,000, plus a fourth \$5,000 check from
12 Brown received during the next reporting period were "collateral" payments Brown made to
13 Yu in "what [Yu and Brown] have represented to [counsel] as a bona fide business agreement
14 for the purchase of real estate," an agreement "unrelated to the committee." *Id.* at Ex. C at 1-
15 2, 5. Unlike the first three checks, the fourth check is payable to Yu personally and contains
16 the written notation "loan" on the memo line. *Id.* at Ex. C at 5. The Committee maintains
17 that due to inexperience, it believed payments from Brown to Yu made as part of a bona fide
18 business agreement could be treated as other personal funds of Yu.¹⁹ *Id.* at Ex. C at 2.

¹⁸ As noted, *supra* at note 11, Yu also reports in the Senate FDR a home equity loan incurred in 2012 in the range of \$50,001 to \$100,000, but it is listed as his spouse's liability.

¹⁹ At the time these checks were written, Brown had already contributed \$4,500 to the Committee. *See* 2013 October Quarterly Report (Oct. 16, 2013). The Committee asserts that the Brown/Waynetworks check deposits were discovered during a review of a proposed amended 2013 October Quarterly Report and, upon counsel's advice, the Committee refunded \$50,000 to Brown on November 15, 2013. *Resp.* at Ex. C at 2, 5. The Committee amended the 2013 October Quarterly Report on January 14, 2014, disclosing each of the checks comprising the \$45,000 received from Brown and Waynetworks during that period as contributions from them instead of as personal loans from Yu with a notation that each one was "refunded in the next report." Amended 2013 October Quarterly Report at 12 (Jan. 14, 2014). In its original 2013 Year End Report, the Committee

1 The *sua sponte* matter was assigned to ADRO and a negotiated settlement agreement
2 was forwarded to the Commission for approval on July 17, 2014.

3 **III. LEGAL ANALYSIS**

4 The Complaint alleges that Yu had insufficient personal funds to loan his federal
5 campaigns \$736,000. The Complaint bases its allegations on Yu's House FDS and a press
6 report analyzing the information contained in the disclosure statement.²⁰ See Compl. at 3-4,
7 12-13; Walter Jones, Morris News Service, *Source of Yu Funds Remains a Mystery*, THE
8 AUGUSTA CHRONICLE (May 9, 2014). The article notes that Yu's House FDS lists at most
9 \$50,000 in a money market account; that income from Yu's investment income is a fraction
10 of the funds loaned as of that date; that one of the companies in which Yu reported owning
11 stocks "effectively folded" (an apparent reference to the Inspirit stock); and that Yu already
12 had a first and second mortgage on his home before he started his Senate campaign.²¹ Compl.
13 at 12-13.²² The Complaint also relies on a second press report to allege that the Committee's
14 acceptance of excessive contributions from Brown and his company, Waynetworks, LLC,

disclosed the fourth \$5,000 check as a contribution from Brown and reported refunds to Brown totaling \$35,000 and \$15,000 to Brown and Waynetworks, respectively. 2013 Year End Report at 52 (Jan. 30, 2014).

²⁰ The Complaint relies on the same article in asserting that Yu's failure to respond to inquiries about his finances suggests "potential illegalities" in the source of the funds. Compl. at 1, 12-13.

²¹ The article's reference to two mortgages on Yu's home appears to assume the 2002 home mortgage and the April 2013 home equity loan listed in the House FDS were loans against the Yu's residence.

²² The article also states that Yu declared bankruptcy in 2007. We found no personal bankruptcy case involving Yu on PACER. A company owned by Yu and his wife for ten years, Commercial & Military Services Company, Inc., ("CMS"), however, filed a petition for reorganization under Chapter 11 of the Bankruptcy Code in 2004. See Business Editor, *Supplier Will Finish Contract*, THE AUGUSTA CHRONICLE (June 26, 2006) available at http://chronicle.augusta.com/stories/2006/09/26/bus_98146.shtml. The bankruptcy court issued an order converting it to a liquidation under Chapter 7 of the Bankruptcy Code upon a motion by the U.S. Trustee in 2006. *Id.* CMS refurbished trucks for the U.S. and foreign militaries. *Id.* CMS was liquidated and the bankruptcy case was closed on March 25, 2013.

1 earlier in the cycle shows a pattern of violating the contribution limits.²³ *Id.* at 1, 10-11; Russ
2 Bynum, Associated Press, *Augusta Candidate Eugene Yu Took \$50,000 in Prohibited*
3 *Contributions*, THE AUGUSTA CHRONICLE (Mar. 10, 2014) ("*Augusta Candidate Eugene Yu*").

4 Respondents assert that Yu made "several" loans from personal funds in accordance
5 with applicable regulations and that the House FDS shows that Yu had assets valued at "well
6 over \$3 million," an amount greater than the loans he made. Resp. at 2. Respondents provide
7 no information, however, as to whether or how any of Yu's reported assets may have been
8 converted to cash to finance the loans given his comparatively modest level of liquid assets.
9 Instead, Respondents merely assert that "as of this writing, no facts have been presented to
10 show that Mr. Yu used funds other than personal funds in the loans made to his committee."
11 *Id.* Finally, Respondents deny that the Committee's acceptance of \$50,000 in excessive
12 contributions by Brown and Waynetworks reflects a pattern of violating the law, attributing
13 the error to inexperience and pointing out that they self-reported the violations to the
14 Commission in its *sua sponte* submission. Resp. at 2, Ex. C. They also state that the
15 Committee made appropriate refunds and amended its FEC reports. *Id.* at 2.

16 Federal candidates may make unlimited contributions from their "personal funds" to
17 their campaigns. 11 C.F.R. § 110.10; *see also Buckley v. Valeo*, 424 U.S. 1, 54 (1976)
18 (holding restrictions on candidate's expenditures from personal funds unconstitutional).
19 Under the Act and Commission regulations, "personal funds" of a candidate means an amount
20 that is derived from:

²³ The second article describes, *inter alia*, the facts that are the subject of the Committee's *sua sponte* submission. According to the article, Yu and Brown said that Brown owed Yu money for his share of a real estate investment. Compl. at 10. Brown elaborated in an e-mail, stating: "Eugene had already paid for the property so I was reimbursing him for my share. Since it was his money, it was deposited into the campaign account as a contribution from him which was correct but not transparent." *Id.*

1 anything of value made by any person for the purpose of influencing any election for Federal
2 office. 52 U.S.C. § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)).

3 All contributions made by persons other than political committees must be reported in
4 accordance with 52 U.S.C. § 30104(b)(2)(A) (formerly 2 U.S.C. § 434(b)(2)(A)). Political
5 committees must report the identification of each person who makes a contribution or
6 contributions with an aggregate value in excess of \$200 during the reporting period, together
7 with the date and amount. 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)).

8 Respondents generally assert, in an unsworn response, that Yu made loans to the
9 Committee from personal funds in accordance with applicable regulations and maintain that
10 the House FDS shows that Yu had assets well over \$3 million. Based on Yu's House and
11 Senate financial disclosure documents, however, it appears he had at most approximately
12 \$215,001 from which to make loans to the Committee as of an unspecified date in February or
13 March 2014, the end of the period covered by the House FDS. Yu had loaned the Committee
14 \$428,984 as of February 24, 2014, the earliest possible end date of the coverage period. The
15 \$215,001 figure is comprised of Yu's share of rental income from commercial property at the
16 highest range for 2013 and 2014 (\$100,000, half of the possible \$200,000 in income received
17 in those years when Yu reported the property as jointly owned), funds in the money market
18 account as of the end of 2012 and in 2014 at the highest ranges (\$15,001 and \$50,000,
19 respectively), and \$50,000 from the home equity loan obtained in April 2013,²⁴ assuming that

²⁴ To the extent any of the loans Yu made to the Committee were comprised of proceeds from the 2013 home equity loan, they should have been reported as bank loans and not loans from Yu's personal funds. See 11 C.F.R. §§ 104.3(d) and 104.8(g) (setting out how committees should report bank loans obtained by a candidate, including lines of credit).

1 Yu's share of equity in the underlying jointly owned property is at least that amount.²⁵ The
2 fact that Yu reported the same stocks and properties with the same or increased values and no
3 liabilities related to those assets in both the Senate FDR and House FDS indicates he had not
4 liquidated or obtained loans against them to finance his campaign as of the end of the House
5 FDS coverage period.²⁶

6 It is possible that Yu could have sold one or more of his listed assets or obtained loans
7 against the properties after he filed the House FDS. Yu made an additional \$361,720 in loans
8 after February 24, 2014. As noted, however, it appears that the stocks Yu reported had no
9 value as of 2012 and the Greene County land may not be owned by Yu. The reported value of
10 Yu's share of the remaining jointly owned properties – the commercial property and
11 condominium – ranges from \$625,000 to \$2,725,000. We have located no public records that
12 reflect sales of these properties or public information as to whether Yu obtained loans against
13 them in 2014. Again, to the extent proceeds from bank loans were used to finance Yu's loans
14 to the Committee, the loans should have been reported as bank loans.

²⁵ We have not included in this figure the \$100,000 in rental income received from the commercial property in 2012 when Yu reported solely owning the property because presumably any funds unspent before Yu began his campaign in 2013 would be included in the balance of the money market account. Similarly, we did not include the interest income on the money market account because those small amounts should also be reflected in the account balance. We included the full balances of the money market account in 2012 and 2014 based on previous MURs where the Commission treated funds in a jointly held bank account with a spouse as an exception to the 'one half interest rule' for jointly held account under former 11 C.F.R. § 110.10(b)(3) (current 11 C.F.R. § 100.33(c)) because the Commission has determined in previous MURs that each joint account holder has access and control over the whole. *See, e.g.*, MURs 3505, 3560 and 3569 (Citizens for Ron Klink, *et al.*); MUR 2292 (Stein for Congress). *But see* MUR 6341 (Adams for Congress) (Commission dismissed matter involving a \$50,000 loan possibly financed by the candidate's deceased father and revised the Factual and Legal Analysis to delete language citing to MUR 3505 and the exception to the 'one half interest rule' for jointly held accounts). Certification, MUR 6341 (Mar. 15, 2011).

²⁶ Yu does not list his residence as an asset although he discloses a 2002 home mortgage and the 2013 home equity loan, presumably on that property. Neither the Senate FDR nor the House FDS require candidates (unless they are members of Congress) to disclose a residence or any other property or report mortgages on them unless the properties generate income or are held for investment purposes. *See* Senate FDR Instructions at 10 and 16; House FDS Instructions at 15 and 30.

1 In MUR 5724 (Jim Feldkamp for Congress), a matter similar to this case, the
2 Commission found reason to believe that Feldkamp and his committee may have accepted
3 excessive contributions and that the committee may have violated the reporting provisions of
4 the Act in connection with \$77,500 in loans Feldkamp made to the committee purportedly
5 from personal funds. Feldkamp's House FDS disclosed no liquid assets or salary in 2004
6 when he made the loans, and income from non-liquid assets of only about \$10,000. Factual
7 and Legal Analysis at 2-3 ("F&LA"), MUR 5724; Certification, *id.* (Dec. 14, 2006).²⁷
8 Although Feldkamp reported between \$1.1 million and \$5.4 million in non-liquid assets, his
9 unsworn response did not indicate that he liquidated any assets to fund the loans. F&LA at 2-
10 3. Feldkamp responded only that he had sufficient personal funds through those non-liquid
11 assets, salaries from several jobs that he had not disclosed on his House FDS, and a history of
12 gifts from his mother, and he asserted that the funds for the loans came from his own bank
13 account. *Id.* at 3-4. Feldkamp did not disclose a bank account on the House FDS, and he did
14 not provide any information about the account or the source of funds in it in his response. *Id.*
15 The Commission concluded that, based on the available information, it appeared that
16 Feldkamp had insufficient income to make the loans to his campaign, had not liquidated any
17 assets to finance them, and that his assertions about the source of the loans were not supported
18 by the information disclosed in the House FDS or in his response. *Id.* at 4-5.

19 As in MUR 5724, the available information in this matter suggests that Yu had
20 insufficient liquid assets to loan \$790,704 to the Committee from personal funds and that he
21 did not liquidate other assets to finance them as of February or March 2014. Like Feldkamp,

²⁷ The investigation in MUR 5724 determined that Feldkamp's mother was the source of the funds. *See* Second GCR, MUR 5724. The Commission closed the file on October 7, 2008, after splitting 3-2 on a vote to approve recommended additional reason to believe findings against Feldkamp's mother and a proposed conciliation agreement. Certification, *id.* (Oct. 7, 2008).

1 Respondents in this matter maintain only that the loans were from personal funds but provide
2 no information as to how Yu financed the loans using his reported assets. The modest amount
3 of Yu's available liquid assets, the fact that Yu financed his first \$50,000 in loans to the
4 Committee about a month after taking out a home equity loan of between \$15,001 and
5 \$50,000, and the general nature of Respondents' unsworn response raise an inference that Yu
6 may have used funds obtained from another source, used proceeds from a bank loan, or both,
7 to make at least some of the loans to the Committee. Therefore, we recommend that the
8 Commission find reason to believe that Eugene Yu for Congress and Donnie Miller in his
9 official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f) (formerly 2 U.S.C.
10 §§ 434(b) and 441a(f)), and that Eugene Chin Yu violated 52 U.S.C. § 30116(f) (formerly
11 2 U.S.C. § 441a(f)), and authorize an investigation into the source of the loans that Yu
12 purports to have made with his own personal funds.

13 Further, because the broad issue in ADR 701 (Pre-MUR 569) appears interrelated to
14 the allegations in this MUR, *i.e.*, questions regarding the source of loans that Yu disclosed as
15 having been made from his own personal funds, we recommend that the Commission refrain
16 from taking action on ADR 701 (Pre-MUR 569) pending the proposed investigation because
17 we do not know whether it will lead to any information bearing on the funds at issue in ADR
18 701 or the real estate agreement between Yu and Brown referenced in ADR's proposed
19 settlement and the underlying Submission.

20 **IV. INVESTIGATION**

21 We recommend that the Commission authorize an investigation to determine whether
22 Yu made the loans to the Committee from personal funds and, if he did not, to identify the
23 source of the loans and determine the necessary corrections to the Committee's FEC

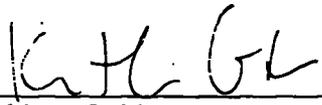
1 disclosure reports. We would seek to conduct the investigation informally, but recommend
2 that the Commission authorize the use of compulsory process, including interrogatories and
3 subpoenas, as necessary.

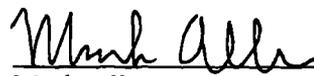
4 **V. RECOMMENDATIONS**

- 5 1. Find reason to believe that Yu for Congress, Inc., and Donnie Miller in his official
6 capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f) (formerly
7 2 U.S.C. §§ 434(b) and 441a(f));
8
9 2. Find reason to believe that Eugene Chin Yu violated 52 U.S.C. § 30116(f) (formerly
10 2 U.S.C. 441a(f));
11
12 3. Approve the attached Factual and Legal Analysis;
13
14 4. Authorize the use of compulsory process, including interrogatories and subpoenas,
15 as necessary; and
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17 5. Approve the appropriate letters.
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23 Date

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Kathleen Guith
Deputy Associate General Counsel
for Enforcement


Mark Allen
Acting Assistant General Counsel


Dawn M. Odrowski
Attorney

40 Attachments:

- 41 A. Chart of Yu's Personal Loans
B. Factual and Legal Analysis

MUR 6824 – FIRST GENERAL COUNSEL'S REPORT-ATTACHMENT A

All Loans Made by Yu to Committee Reported as From Personal Funds

DATE LOAN INCURRED ¹	LOAN AMOUNT	LOAN REPAYMENTS	LOAN BALANCE
5/15/2013	\$ 10,000.00	\$7,200 on 7/29/13	\$ 2,800.00
5/24/2013	\$ 40,000.00		\$ 40,000.00
6/12/2013	\$ 1,500.00		\$ 1,500.00
6/26/2013	\$ 6,308.24		\$ 6,308.24
6/29/2013	\$ 500.00		\$ 500.00
7/13/2013	\$ 5,160.00		\$ 5,160.00
7/17/2013	\$ 50,000.00		\$ 50,000.00
7/26/2013	\$ 10,877.36		\$ 10,877.36
9/25/2013	\$ 3,209.50		\$ 3,209.50
10/1/2013	\$ 55,000.00		\$ 55,000.00
10/15/2013	\$ 29,829.71		\$ 29,829.71
10/31/2013	\$ 3,522.50		\$ 3,522.50
11/15/2013	\$ 8,451.38		\$ 8,451.38
11/18/2013	\$ 80,000.00		\$ 80,000.00
11/26/2013	\$ 20,000.00		\$ 20,000.00
12/11/2013	\$ 25,000.00		\$ 25,000.00
12/15/2013	\$ 14,986.55		\$ 14,986.55
12/18/2013	\$ 1,000.00		\$ 1,000.00
12/19/2013	\$ 50,000.00		\$ 50,000.00
12/27/2013	\$ 3,000.00		\$ 3,000.00

¹ The loans incurred on 6/26/13, 7/13/13, 7/26/13 and 9/25/13, totaling \$25,550.10, were first reported in the recently Amended 2013 October Quarterly Report (Aug. 29, 2014) in response to a Request for Additional Information ("RFAI") from the Reports Analysis Division ("RAD"). The RFAI asked for information, *inter alia*, regarding a negative ending cash-on-hand balance of \$-26,098.59 on the previously amended 2013 October Quarterly Report. See RFAI Re: Amended October Quarterly Report received June 6, 2014 (July 29, 2014). In an August 28, 2014, cover letter accompanying the August 29, 2014 amendment, the Committee responded that since there had never been a negative balance, it had reviewed its records and discovered that Yu had been using personal funds to pay expenses at the beginning of the campaign. Amended 2013 October Quarterly Report (August 29, 2014). Though the expenses had been reported, the Committee stated that no "offsetting loans" from Yu, presumably representing funds used to pay the expenses, had been reported and that the amended report had corrected the issue. *Id.*

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DATE LOAN INCURRED	LOAN AMOUNT	LOAN REPAYMENTS ²	LOAN BALANCE
1/30/2014	\$ 1,138.97		\$ 1,138.97
2/3/2014	\$ 1,500.00	\$1,500 on 4/14/14	0.00
2/7/2014	\$ 5,000.00	\$2,000 on 4/14/14	0.00
2/10/2014	\$ 3,000.00		\$ 3,000.00
2/26/2014	\$ 4,000.00		\$ 4,000.00
2/27/2014	\$ 5,220.00		\$ 5,220.00
3/5/2014	\$ 5,000.00		\$ 5,000.00
3/10/2014	\$ 3,500.00	\$3,000 on 3/26/14 \$ 500 on 4/14/14	
3/13/2014	\$ 20,000.00		\$ 20,000.00
3/25/2014	\$240,000.00		\$240,000.00
5/14/2014	\$ 30,000.00		\$ 30,000.00
5/16/2014	\$ 40,000.00		\$ 40,000.00
8/4/2014	\$ 4,000.00		\$ 4,000.00
8/4/2014	\$ 10,000.00		\$ 10,000.00
TOTAL	\$790,704.21	\$ 14,200.00	\$776,504.21³

² The 2/7/14 and 3/10/14 loans are reported on Schedules A and C of the Committee's Amended 2014 April Quarterly Report. Amended 2014 April Quarterly Report at 15, 17, 45, 50 (Aug. 29, 2014). The loans no longer appear on Schedule C of the Amended 2014 Pre-Primary Report. We infer from two loan repayments reported on Schedule B of the Amended 2014 Pre-Primary Report that match the balances of these loans as reflected in the Amended April Quarterly Report that they were repaid. See Amended 2014 Pre-Primary Report at 25 (Aug. 28, 2014).

³ In response to an RFAI from RAD, the Committee has converted the outstanding personal loans aggregating in excess of \$250,000 to contributions in accordance with 52 U.S.C. § 30116(j) (formerly 2 U.S.C. § 441a(j)) and 11 C.F.R. § 116.11. See note 2; Amended 2014 July Quarterly Report (Aug. 28, 2014) at 5 (memo text); 2014 October Quarterly Report at 5 (Oct. 1, 2014).

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1 **FEDERAL ELECTION COMMISSION**

2
3
4 **RESPONDENTS:** Eugene Chin Yu
5 Eugene Yu for Congress, Inc., and Donnie Miller
6 in his official capacity as treasurer
7

MUR 6824

8
9 **FACTUAL AND LEGAL ANALYSIS**

10
11 **I. INTRODUCTION**

12
13 The Complaint in this matter alleges that Eugene Chin Yu, a candidate in the 2014
14 Republican primary in Georgia’s 12th Congressional District, had insufficient financial assets
15 to make more than \$700,000 in loans to his campaign that he reported as coming from his
16 own personal funds based primarily on information contained in the House Financial
17 Disclosure Statement (“House FDS”) Yu filed with the Office of the Clerk, U.S House of
18 Representatives.¹ Compl. at 1 (May 19, 2014). Further, according to the Complaint, these
19 alleged violations follow a “pattern” of violating contribution limits that the Committee
20 established earlier in the election cycle when it accepted \$50,000 in excessive contributions.²
21 *Id.* at 1, 10-13.

22 Yu and his principal campaign committee, Eugene Yu for Congress (“Committee”)
23 (collectively “Respondents”), maintain that Yu made loans to the Committee from personal
24 funds in accordance with applicable regulations and that no facts have been presented
25 showing that Yu used funds from any other sources. Resp. at 2 (June 9, 2014). Respondents

¹ Yu lost the May 20, 2014, Republican primary, receiving 16.5% of the vote in a five-person race. See Georgia Office of the Secretary of State website at <http://results.enr.clarityelections.com/GA/51345/132192/en/summary.html>.

² The \$50,000 in excessive contributions cited in the Complaint was the subject of a *sua sponte* submission filed with the Commission by the Committee. The contributions were originally reported as personal loans from the candidate. See Pre-MUR 569 (Eugene Yu for Congress, *et al.*) (Jan. 23, 2014).

1 state that Yu's House FDS shows that Yu had personal assets valued in excess of \$3 million,
2 an amount greater than the total loans. *Id.*

3 Based on the available information, it appears that Yu did not have sufficient liquid
4 assets, or proceeds from liquidating other assets, to loan his Committee \$790,704 from
5 personal funds,³ the total amount of candidate loans reported during the 2014 election cycle.⁴
6 Therefore, the Commission finds reason to believe that Eugene Yu for Congress and Donnie
7 Miller in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f)
8 (formerly 2 U.S.C. §§ 434(b) and 441a(f)), and Eugene Chin Yu violated 52 U.S.C. § 30116(f)
9 (formerly 2 U.S.C. § 441a(f)).

10 II. FACTS

11 A. Senate Candidacy, Candidate Loans, and Senate Financial Disclosure 12 Statement

13
14 On July 11, 2013, Eugene Yu filed a Statement of Candidacy for the U.S. Senate
15 election in Georgia and designated the Committee as his principal campaign committee. On
16 July 17, 2013, Yu filed a Financial Disclosure Report with the Secretary of the U.S. Senate
17 ("Senate FDR").⁵ Yu disclosed no salary or earned income, rental income from a commercial

³ The Complaint alleges that Yu made \$736,000 in loans from personal funds; the \$790,704 figure includes personal loans made after the Complaint was filed.

⁴ As noted in Attachment A, a chart entitled "All Loans Made by Yu to Committee Reported as From Personal Loans," the Committee's reports reflect that \$14,200 of the total loan amount was repaid prior to the primary election. Attachment A. In addition, in response to a Request for Additional Information from the Commission's Reports Analysis Division, the Committee has converted the outstanding personal loans aggregating in excess of \$250,000 to contributions in accordance with 52 U.S.C. § 30116(j) (formerly 2 U.S.C. § 441a(j)) and 11 C.F.R. § 116.11. *See id.*, note 2; Amended 2014 July Quarterly Report (Aug. 28, 2014) at 5 (memo text); 2014 October Quarterly Report at 5 (Oct. 1, 2014).

⁵ Candidates seeking election to the U.S. Senate and U.S. House are required to file financial disclosure reports by the Ethics in Government Act ("EIGA"), 2 U.S.C. § 101 *et seq.* Although the instructions for the Senate FDR specify the reporting period for most of the information in the report is January 1, 2012, through the date of filing (July 17, 2013 in this case), Yu lists 2012 as the reporting period. Public Financial Disclosure Report eFD Instructions, Senate Select Committee on Ethics, at 3-4 (2014) ("Senate FDR Instructions"). Yu

1 property in the range of \$50,001 to \$100,000, and compensation from one source in excess of
2 \$5,000 from a company in which Yu owned stock.⁶ Yu also disclosed assets: a money
3 market account in the range of \$1,001 to \$15,000;⁷ stocks in two Korean companies, Inspirit,
4 Inc., and Enspert, Inc., and three properties – the commercial property (noted above), vacant
5 land described as “Land-Greene Co.,” and a condominium.⁸ These assets, with a combined
6 disclosed value ranging from \$2,450,000 to \$11,000,000, are listed as owned by Yu except for
7 the Greene County land reported as owned by Yu’s spouse. Thus, Yu’s share of the disclosed
8 stock and property as of December 31, 2012, is reportedly valued between \$2,350,000 and
9 \$10,750,000.⁹ In a November 2013 amendment to the Senate FDR, however, Yu states that
10 Inspirit, Inc., went out of business in 2012.¹⁰ Similarly, Yu reports the value of the second
11 stock, Enspert, Inc., in the range of \$100,001 to \$250,000, but it appears this company is also

amended his Senate FDR on October 23 and November 4, 2013, in response to questions from the reviewing office. Copies of Yu’s July 17, 2013.

⁶ Part X of the Senate FDR, “Compensation From One Source in Excess of \$5,000,” does not require filers to disclose a specific figure. Candidates are required to list in this section compensation received in the current year and the preceding two calendar years. Senate FDR Instructions at 4. Since Yu reported no income in 2012, it may be that he received this compensation in 2011.

⁷ Yu disclosed that he received no income or less than \$200 from the money market account.

⁸ Yu disclosed that he received no income or less than \$200 from the vacant land and condominium.

⁹ The only liability reported against the disclosed assets is a home equity loan incurred in 2012 in the range of \$50,001 to \$100,000. Yu reported that loan as his spouse’s liability, however. In addition, in both the Senate FDR and House FDS, Yu reports mortgages on his residence and on the condominium, incurred in 2000 and 2002, respectively.

¹⁰ In reply to an inquiry from the Senate’s reviewing office about compensation he received from Inspirit, Yu said “. . . Inspirit, Inc. went out of business in 2012.” Senate FDR at 10 (Nov. 4, 2013). *See also* <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=12315163> (Bloomberg Businessweek’s “Companies & Industries/Company Research” section containing an overview of Inspirit and stating that there are no transactions available in the past 12 months). Inspirit’s website, www.in-spirit.com, connects to a single page about payday loans.

1 defunct.¹¹ Yu's listing of the stocks in the Senate FDR seems to be appropriate because he
2 held the stock during the reporting period, but the reported value of the stocks was not. A
3 filer must report the value of an asset as of any date within 31 days before or after the filing
4 date.¹²

5 During the course of Yu's Senate campaign, the Committee disclosed that Yu made 26
6 separate loans to the campaign, totaling \$438,204. See Attachment A (chart, "All Loans
7 Made by Yu to Committee From Personal Funds"). The source of each of these loans was
8 listed as "Eugene Yu."

9 On February 22, 2014, Yu announced he had dropped out of the Senate race and
10 would instead seek the Republican nomination for the U.S. House of Representatives in
11 Georgia's 12th Congressional District. Walter Jones, *Augusta Businessman Yu Switches*
12 *Senate Campaign to House*, THE AUGUSTA CHRONICLE (Feb. 23, 2014),
13 [http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-](http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-yu-switches-senate-campaign-house)
14 [yu-switches-senate-campaign-house](http://chronicle.augusta.com/news/government/elections/2014-02-23/augusta-businessman-yu-switches-senate-campaign-house).

15 **B. Congressional Candidacy, Candidate Loans, and House Financial**
16 **Disclosure Statement**

17 On March 4, 2014, Yu filed a Statement of Candidacy for the House election in the
18

¹¹ According to CreditRiskMonitor, an internet based publisher of commercial credit information, Enspert filed for bankruptcy on March 26, 2012, and is no longer actively traded on any major stock exchange.

See also
<http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=84150481> (Bloomberg Businessweek's "Companies & Industries/Company Research" section containing an overview Enspert and stating that there are no transactions available in the past 12 months). Enspert's website, www.enspert.com, currently links to a single page written in Korean apparently unrelated to the company.

¹² See Senate FDR Instructions at 3.

1 12th Congressional District and an Amended Statement of Organization changing the name of
2 Eugene Yu for U.S. Senate to Eugene Yu for Congress, Inc.¹³ Yu made an additional eight
3 loans in connection with his House campaign totaling \$352,500 (making the aggregate loan
4 total during both campaigns \$790,704.21). *See* Attachment A. Again, the Committee's
5 disclosure reports listed the source of the loans as "Eugene Yu."

6 Yu filed the House FDS on March 26, 2014. This statement, together with the Senate
7 FDR, provides information about Yu's finances from January 1, 2012, through an unspecified
8 date between February 24, 2014 and March 26, 2014.¹⁴ Yu reports the same assets in the
9 House FDS, filed on March 26, 2014, including the stocks from the apparently defunct
10 companies, with a few increases in the asset value ranges. All of the properties and stocks,
11 however, are now listed as jointly owned by Yu and his spouse, including the vacant Greene
12 County land reported in the Senate FDR as owned by Yu's spouse.¹⁵ Once again, Yu lists no

¹³ The Committee disclosed financial activity for both Yu's Senate and House races.

¹⁴ The reporting period for most of the information in the House FDS begins on January 1, 2013. The Commission does not know the precise date of the end of the reporting period because it covers "through a date in the current calendar year within 30 days of the date of filing *as selected by the candidate*." Here, that date falls between February 24 and March 26, 2014. Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports, U.S. House of Representatives, Committee on Ethics at 7 (2014) ("House FDS Instructions") (emphasis added). In both the House FDS and Senate FDR, certain information, such as positions held in organizations and compensation in excess of \$5,000 paid by one source, must be reported for the current year and two preceding calendar years. House FDS Instructions at 7; Senate FDR Instructions at 4.

¹⁵ In both the Senate FDR and an October 2013 amendment, however, Yu discloses that the property was purchased in September 2012 and lists his spouse as the owner. Senate FDR at 5-6 (July 17, 2013); Senate FDR at 5 (Oct. 23, 2013). Publicly available property records appear to confirm this. A real estate transaction record shows Yu's wife and son, Jonie H. and Eric E. Yu, purchased as joint tenants agricultural property in Greene County, described as new construction, on August 28, 2012, for \$179,000. The deed was recorded on September 4, 2012. *See* Real Property Transaction Record, Westlaw No. APN:0960000040. A local Republican Party website identifies the names of Yu's wife and adult children in a short biographical piece. *See* <http://cherokeecountygop.com/2014-candidates/federal-races/georgia-senate-candidates/eugene-yu/>. The 2014 public tax assessment record for the property still lists them as the owners. *See* Real Property Tax Assessor Record, Westlaw No. APN:096-C-00-010-0.

1 salary or earned income, a money market account now valued in the range of \$15,001 to
2 \$50,000, rental income from the commercial property in the range of \$50,001 to \$100,000 for
3 2013 and 2014, and interest income in the range of \$1 to \$200 from the money market
4 account in 2013 and 2014. *See* Compl. at 3-4. Yu also discloses a home equity loan in the
5 range of \$15,001 to \$50,000 obtained in April 2013 (a month before Yu made the first two
6 loans to his campaign, totaling \$50,000). *Id.* at 4. *See also* Attachment A. Yu lists the loan
7 as a joint liability with his spouse.¹⁶ *Id.* at 4. The combined value of the stock and properties
8 as of February or March 2014, based on an increased value and a reported change in
9 ownership of the Greene County land, ranges from \$2,600,000 to \$11,250,000. Yu's share of
10 these assets is in the range of \$1,300,000 to \$5,625,000.

11 **C. Sua Sponte Submission (Pre-MUR 569)**

12 On January 23, 2014, the Committee filed a *sua sponte* submission with the
13 Commission indicating that three of the loans reported in its original 2013 October Quarterly
14 Report as loans from Yu's personal funds were in fact checks payable to the Committee from
15 Wayne Brown and his company, Waynetworks, LLC. *See* Resp. at Ex. C (Submission). The
16 Committee explained that the three checks, totaling \$45,000, plus a fourth \$5,000 check from
17 Brown received during the next reporting period were "collateral" payments Brown made to
18 Yu in "what [Yu and Brown] have represented to [counsel] as a bona fide business agreement
19 for the purchase of real estate," an agreement "unrelated to the committee." *Id.* at Ex. C at 1-
20 2, 5. Unlike the first three checks, the fourth check is payable to Yu personally and contains
21 the written notation "loan" on the memo line. *Id.* at Ex. C at 5. The Committee maintains

¹⁶ As noted, *supra* at note 9, Yu also reports in the Senate FDR a home equity loan incurred in 2012 in the range of \$50,001 to \$100,000, but it is listed as his spouse's liability.

1 that due to inexperience, it believed payments from Brown to Yu made as part of a bona fide
2 business agreement could be treated as other personal funds of Yu.¹⁷ *Id.* at Ex. C at 2.

3 III. LEGAL ANALYSIS

4 The Complaint alleges that Yu had insufficient personal funds to loan his federal
5 campaigns \$736,000. The Complaint bases its allegations on Yu's House FDS and a press
6 report analyzing the information contained in the disclosure statement.¹⁸ *See* Compl. at 3-4,
7 12-13; Walter Jones, Morris News Service, *Source of Yu Funds Remains a Mystery*, THE
8 AUGUSTA CHRONICLE (May 9, 2014). The article notes that Yu's House FDS lists at most
9 \$50,000 in a money market account; that income from Yu's investment income is a fraction
10 of the funds loaned as of that date; that one of the companies in which Yu reported owning
11 stocks "effectively folded" (an apparent reference to the Inspirit stock); and that Yu already
12 had a first and second mortgage on his home before he started his Senate campaign.¹⁹ Compl.
13 at 12-13.²⁰ The Complaint also relies on a second press report to allege that the Committee's

¹⁷ At the time these checks were written, Brown had already contributed \$4,500 to the Committee. *See* 2013 October Quarterly Report (Oct. 16, 2013). The Committee asserts that the Brown/Waynetworks check deposits were discovered during a review of a proposed amended 2013 October Quarterly Report and, upon counsel's advice, the Committee refunded \$50,000 to Brown on November 15, 2013. *Resp.* at Ex. C at 2, 5. The Committee amended the 2013 October Quarterly Report on January 14, 2014, disclosing each of the checks comprising the \$45,000 received from Brown and Waynetworks during that period as contributions from them instead of as personal loans from Yu with a notation that each one was "refunded in the next report." Amended 2013 October Quarterly Report at 12 (Jan. 14, 2014). In its original 2013 Year End Report, the Committee disclosed the fourth \$5,000 check as a contribution from Brown and reported refunds to Brown totaling \$35,000 and \$15,000 to Brown and Waynetworks, respectively. 2013 Year End Report at 52 (Jan. 30, 2014).

¹⁸ The Complaint relies on the same article in asserting that Yu's failure to respond to inquiries about his finances suggests "potential illegalities" in the source of the funds. Compl. at 1, 12-13.

¹⁹ The article's reference to two mortgages on Yu's home appears to assume the 2002 home mortgage and the April 2013 home equity loan listed in the House FDS were loans against the Yu's residence.

²⁰ The article also states that Yu declared bankruptcy in 2007. The Commission found no personal bankruptcy case involving Yu on PACER. A company owned by Yu and his wife for ten years, Commercial & Military Services Company, Inc., ("CMS"), however, filed a petition for reorganization under Chapter 11 of the Bankruptcy Code in 2004. *See* Business Editor, *Supplier Will Finish Contract*, THE AUGUSTA CHRONICLE (June 26, 2006) available at http://chronicle.augusta.com/stories/2006/09/26/bus_98146.shtml. The bankruptcy

1 acceptance of excessive contributions from Brown and his company, Waynetworks, LLC,
2 earlier in the cycle shows a pattern of violating the contribution limits.²¹ *Id.* at 1, 10-11; Russ
3 Bynum, Associated Press, *Augusta Candidate Eugene Yu Took \$50,000 in Prohibited*
4 *Contributions*, THE AUGUSTA CHRONICLE (Mar. 10, 2014) (“*Augusta Candidate Eugene Yu*”).

5 Respondents assert that Yu made “several” loans from personal funds in accordance
6 with applicable regulations and that the House FDS shows that Yu had assets valued at “well
7 over \$3 million,” an amount greater than the loans he made. Resp. at 2. Respondents provide
8 no information, however, as to whether or how any of Yu’s reported assets may have been
9 converted to cash to finance the loans given his comparatively modest level of liquid assets.
10 Instead, Respondents merely assert that “as of this writing, no facts have been presented to
11 show that Mr. Yu used funds other than personal funds in the loans made to his committee.”
12 *Id.* Finally, Respondents deny that the Committee’s acceptance of \$50,000 in excessive
13 contributions by Brown and Waynetworks reflects a pattern of violating the law, attributing
14 the error to inexperience and pointing out that they self-reported the violations to the
15 Commission in its *sua sponte* submission. Resp. at 2, Ex. C. They also state that the
16 Committee made appropriate refunds and amended its FEC reports. *Id.* at 2.

court issued an order converting it to a liquidation under Chapter 7 of the Bankruptcy Code upon a motion by the U.S. Trustee in 2006. *Id.* CMS refurbished trucks for the U.S. and foreign militaries. *Id.* CMS was liquidated and the bankruptcy case was closed on March 25, 2013.

²¹ The second article describes, *inter alia*, the facts that are the subject of the Committee’s *sua sponte* submission. According to the article, Yu and Brown said that Brown owed Yu money for his share of a real estate investment. Compl. at 10. Brown elaborated in an e-mail, stating: “Eugene had already paid for the property so I was reimbursing him for my share. Since it was his money, it was deposited into the campaign account as a contribution from him which was correct but not transparent.” *Id.*

1 Federal candidates may make unlimited contributions from their “personal funds” to
2 their campaigns. 11 C.F.R. § 110.10; *see also Buckley v. Valeo*, 424 U.S. 1, 54 (1976)
3 (holding restrictions on candidate’s expenditures from personal funds unconstitutional).
4 Under the Act and Commission regulations, “personal funds” of a candidate means an amount
5 that is derived from:

- 6 (A) any asset that, under applicable State law, at the time the
7 individual became a candidate, the candidate had legal right of
8 access to or control over, and with respect to which the
9 candidate had:
10
11 (i) legal and rightful title; or
12 (ii) an equitable interest;
13
14 (B) income received during the current election cycle of the candidate, including—
15
16 (i) a salary and other earned income from bona fide employment;
17 (ii) dividends and proceeds from the sale of the candidate’s stocks or
18 other investments;
19 (iii) bequests to the candidate;
20 (iv) income from trusts established before the beginning of the election
21 cycle;
22 (v) income from trusts established by bequest after the beginning of the
23 election cycle of which the candidate is the beneficiary;
24 (vi) gifts of a personal nature that had been customarily received by the
25 candidate prior to the beginning of the election cycle; and
26 (vii) proceeds from lotteries and similar legal games of chance; and
27
28 (C) a portion of assets that are jointly owned by the candidate and the
29 candidate’s spouse equal to the candidate’s share of the asset under the
30 instrument of conveyance or ownership, but if no specific share is indicated
31 by an instrument of conveyance or ownership, the value of 1/2 of the
32 property.
33

34 52 U.S.C. § 30101(26) (formerly 2 U.S.C. § 431(26)); *see also* 11 C.F.R. § 100.33.
35

36 The Act prohibits any person from making contributions to any candidate and the
37 candidate’s authorized political committee with respect to any election for Federal office

1 which, in the aggregate, exceed \$2,600. 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C.
2 § 441(a)(1)(A)). In addition, the Act prohibits any candidate or political committee from
3 knowingly accepting any contribution or making any expenditure in violation of the
4 provisions of section 30116 (formerly 441 a). 52 U.S.C. § 30116(f) (formerly 2 U.S.C.
5 § 441a(f)). A contribution is any gift, subscription, loan, advance, or deposit of money or
6 anything of value made by any person for the purpose of influencing any election for Federal
7 office. 52 U.S.C. § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)).

8 All contributions made by persons other than political committees must be reported in
9 accordance with 52 U.S.C. § 30104(b)(2)(A) (formerly 2 U.S.C. § 434(b)(2)(A)). Political
10 committees must report the identification of each person who makes a contribution or
11 contributions with an aggregate value in excess of \$200 during the reporting period, together
12 with the date and amount. 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)).

13 Respondents generally assert, in an unsworn response, that Yu made loans to the
14 Committee from personal funds in accordance with applicable regulations and maintain that
15 the House FDS shows that Yu had assets well over \$3 million. Based on Yu's House and
16 Senate financial disclosure documents, however, it appears he had at most approximately
17 \$215,001 from which to make loans to the Committee as of an unspecified date in February or
18 March 2014, the end of the period covered by the House FDS. Yu had loaned the Committee
19 \$428,984 as of February 24, 2014, the earliest possible end date of the coverage period. The
20 \$215,001 figure is comprised of Yu's share of rental income from commercial property at the
21 highest range for 2013 and 2014 (\$100,000, half of the possible \$200,000 in income received
22 in those years when Yu reported the property as jointly owned), funds in the money market
23 account as of the end of 2012 and in 2014 at the highest ranges (\$15,001 and \$50,000,

1 respectively), and \$50,000 from the home equity loan obtained in April 2013,²² assuming that
2 Yu's share of equity in the underlying jointly owned property is at least that amount.²³ The
3 fact that Yu reported the same stocks and properties with the same or increased values and no
4 liabilities related to those assets in both the Senate FDR and House FDS indicates he had not
5 liquidated or obtained loans against them to finance his campaign as of the end of the House
6 FDS coverage period.²⁴

7 It is possible that Yu could have sold one or more of his listed assets or obtained loans
8 against the properties after he filed the House FDS. Yu made an additional \$361,720 in loans
9 after February 24, 2014. As noted, however, it appears that the stocks Yu reported had no
10 value as of 2012 and the Greene County land may not be owned by Yu. The reported value of
11 Yu's share of the remaining jointly owned properties – the commercial property and
12 condominium – ranges from \$625,000 to \$2,725,000. The Commission has located no public

²² To the extent any of the loans Yu made to the Committee were comprised of proceeds from the 2013 home equity loan, they should have been reported as bank loans and not loans from Yu's personal funds. See 11 C.F.R. §§ 104.3(d) and 104.8(g) (setting out how committees should report bank loans obtained by a candidate, including lines of credit).

²³ The Commission has not included in this figure the \$100,000 in rental income received from the commercial property in 2012 when Yu reported solely owning the property because presumably any funds unspent before Yu began his campaign in 2013 would be included in the balance of the money market account. Similarly, the Commission did not include the interest income on the money market account because those small amounts should also be reflected in the account balance. The Commission included the full balances of the money market account in 2012 and 2014 based on previous MURs where the Commission treated funds in a jointly held bank account with a spouse as an exception to the 'one half interest rule' for jointly held account under former 11 C.F.R. § 110.10(b)(3) (current 11 C.F.R. § 100.33(c)) because the Commission has determined in previous MURs that each joint account holder has access and control over the whole. See, e.g., MURs 3505, 3560 and 3569 (Citizens for Ron Klink, *et al.*); MUR 2292 (Stein for Congress). *But see* MUR 6341 (Adams for Congress) (Commission dismissed matter involving a \$50,000 loan possibly financed by the candidate's deceased father and revised the Factual and Legal Analysis to delete language citing to MUR 3505 and the exception to the 'one half interest rule' for jointly held accounts). Certification, MUR 6341 (Mar. 15, 2011).

²⁴ Yu does not list his residence as an asset although he discloses a 2002 home mortgage and the 2013 home equity loan, presumably on that property. Neither the Senate FDR nor the House FDS require candidates (unless they are members of Congress) to disclose a residence or any other property or report mortgages on them unless the properties generate income or are held for investment purposes. See Senate FDR Instructions at 10 and 16; House FDS Instructions at 15 and 30.

1 records that reflect sales of these properties or public information as to whether Yu obtained
2 loans against them in 2014. Again, to the extent proceeds from bank loans were used to
3 finance Yu's loans to the Committee, the loans should have been reported as bank loans.

4 In MUR 5724 (Jim Feldkamp for Congress), a matter similar to this case, the
5 Commission found reason to believe that Feldkamp and his committee may have accepted
6 excessive contributions and that the committee may have violated the reporting provisions of
7 the Act in connection with \$77,500 in loans Feldkamp made to the committee purportedly
8 from personal funds. Feldkamp's House FDS disclosed no liquid assets or salary in 2004
9 when he made the loans, and income from non-liquid assets of only about \$10,000. Factual
10 and Legal Analysis at 2-3 ("F&LA"), MUR 5724; Certification, *id.* (Dec. 14, 2006).²⁵

11 Although Feldkamp reported between \$1.1 million and \$5.4 million in non-liquid assets, his
12 unsworn response did not indicate that he liquidated any assets to fund the loans. F&LA at 2-
13 3. Feldkamp responded only that he had sufficient personal funds through those non-liquid
14 assets, salaries from several jobs that he had not disclosed on his House FDS, and a history of
15 gifts from his mother, and he asserted that the funds for the loans came from his own bank
16 account. *Id.* at 3-4. Feldkamp did not disclose a bank account on the House FDS, and he did
17 not provide any information about the account or the source of funds in it in his response. *Id.*
18 The Commission concluded that, based on the available information, it appeared that
19 Feldkamp had insufficient income to make the loans to his campaign, had not liquidated any
20 assets to finance them, and that his assertions about the source of the loans were not supported
21 by the information disclosed in the House FDS or in his response. *Id.* at 4-5.

²⁵ The investigation in MUR 5724 determined that Feldkamp's mother was the source of the funds. *See* Second GCR, MUR 5724. The Commission closed the file on October 7, 2008, after splitting 3-2 on a vote to approve recommended additional reason to believe findings against Feldkamp's mother and a proposed conciliation agreement. Certification, *id.* (Oct. 7, 2008).

1 As in MUR 5724, the available information in this matter suggests that Yu had
2 insufficient liquid assets to loan \$790,704 to the Committee from personal funds and that he
3 did not liquidate other assets to finance them as of February or March 2014. Like Feldkamp,
4 Respondents in this matter maintain only that the loans were from personal funds but provide
5 no information as to how Yu financed the loans using his reported assets. The modest amount
6 of Yu's available liquid assets, the fact that Yu financed his first \$50,000 in loans to the
7 Committee about a month after taking out a home equity loan of between \$15,001 and
8 \$50,000, and the general nature of Respondents' unsworn response raise an inference that Yu
9 may have used funds obtained from another source, used proceeds from a bank loan, or both,
10 to make at least some of the loans to the Committee. Therefore, the Commission finds reason
11 to believe that Eugene Yu for Congress and Donnie Miller in his official capacity as treasurer
12 violated 52 U.S.C. §§ 30104(b) and 30116(f) (formerly 2 U.S.C. §§ 434(b) and 441a(f)), and
13 that Eugene Chin Yu violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).

MUR 6824 – FACTUAL AND LEGAL ANALYSIS – ATTACHMENT A

All Loans Made by Yu to Committee Reported as From Personal Funds

DATE LOAN INCURRED ¹	LOAN AMOUNT	LOAN REPAYMENTS	LOAN BALANCE
5/15/2013	\$ 10,000.00	\$7,200 on 7/29/13	\$ 2,800.00
5/24/2013	\$ 40,000.00		\$ 40,000.00
6/12/2013	\$ 1,500.00		\$ 1,500.00
6/26/2013	\$ 6,308.24		\$ 6,308.24
6/29/2013	\$ 500.00		\$ 500.00
7/13/2013	\$ 5,160.00		\$ 5,160.00
7/17/2013	\$ 50,000.00		\$ 50,000.00
7/26/2013	\$ 10,877.36		\$ 10,877.36
9/25/2013	\$ 3,209.50		\$ 3,209.50
10/1/2013	\$ 55,000.00		\$ 55,000.00
10/15/2013	\$ 29,829.71		\$ 29,829.71
10/31/2013	\$ 3,522.50		\$ 3,522.50
11/15/2013	\$ 8,451.38		\$ 8,451.38
11/18/2013	\$ 80,000.00		\$ 80,000.00
11/26/2013	\$ 20,000.00		\$ 20,000.00
12/11/2013	\$ 25,000.00		\$ 25,000.00
12/15/2013	\$ 14,986.55		\$ 14,986.55
12/18/2013	\$ 1,000.00		\$ 1,000.00
12/19/2013	\$ 50,000.00		\$ 50,000.00
12/27/2013	\$ 3,000.00		\$ 3,000.00

¹ The loans incurred on 6/26/13, 7/13/13, 7/26/13 and 9/25/13, totaling \$25,550.10, were first reported in the recently Amended 2013 October Quarterly Report (Aug. 29, 2014) in response to a Request for Additional Information (“RFAI”) from the Commission’s Reports Analysis Division (“RAD”). The RFAI asked for information, *inter alia*, regarding a negative ending cash-on-hand balance of \$-26,098.59 on the previously amended 2013 October Quarterly Report. See RFAI Re: Amended 2013 October Quarterly Report received June 6, 2014 (July 29, 2014). In an August 28, 2014, cover letter accompanying the August 29, 2014 amendment, the Committee responded that since there had never been a negative balance, it had reviewed its records and discovered that Yu had been using personal funds to pay expenses at the beginning of the campaign. Amended 2013 October Quarterly Report (August 29, 2014). Though the expenses had been reported, the Committee stated that no “offsetting loans” from Yu, presumably representing funds used to pay the expenses, had been reported and that the amended report had corrected the issue. *Id.*

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DATE LOAN INCURRED	LOAN AMOUNT	LOAN REPAYMENTS ²	LOAN BALANCE
1/30/2014	\$ 1,138.97		\$ 1,138.97
2/3/2014	\$ 1,500.00	\$1,500 on 4/14/14	0.00
2/7/2014	\$ 5,000.00	\$2,000 on 4/14/14	0.00
2/10/2014	\$ 3,000.00		\$ 3,000.00
2/26/2014	\$ 4,000.00		\$ 4,000.00
2/27/2014	\$ 5,220.00		\$ 5,220.00
3/5/2014	\$ 5,000.00		\$ 5,000.00
3/10/2014	\$ 3,500.00	\$3,000 on 3/26/14 \$ 500 on 4/14/14	
3/13/2014	\$ 20,000.00		\$ 20,000.00
3/25/2014	\$240,000.00		\$240,000.00
5/14/2014	\$ 30,000.00		\$ 30,000.00
5/16/2014	\$ 40,000.00		\$ 40,000.00
8/4/2014	\$ 4,000.00		\$ 4,000.00
8/4/2014	\$ 10,000.00		\$ 10,000.00
TOTAL	\$790,704.21	\$ 14,200.00	\$776,504.21³

² The 2/7/14 and 3/10/14 loans are reported on Schedules A and C of the Committee's Amended 2014 April Quarterly Report. Amended 2014 April Quarterly Report at 15, 17, 45, 50 (Aug. 29, 2014). The loans no longer appear on Schedule C of the Amended 2014 Pre-Primary Report. The Commission infers from two loan repayments reported on Schedule B of the Amended 2014 Pre-Primary Report that match the balances of these loans as reflected in the Amended April Quarterly Report that they were repaid. See Amended 2014 Pre-Primary Report at 25 (Aug. 28, 2014).

³ In response to an RFAI from RAD, the Committee has converted the outstanding personal loans aggregating in excess of \$250,000 to contributions in accordance with 52 U.S.C. § 30116(j) (formerly 2 U.S.C. § 441a(j)) and 11 C.F.R. § 116.11. See note 2; Amended 2014 July Quarterly Report (Aug. 28, 2014) at 5 (memo text); 2014 October Quarterly Report at 5 (Oct. 1, 2014).

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